

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA,  
NORTHERN DIVISION**

**HAZEL M. ROBY, as Administratrix of** )  
**the Estate of RONALD TYRONE** )  
**ROBY, Deceased,** )  
) )  
**Plaintiff,** )  
) )  
**v.** )  
) )  
**BENTON EXPRESS, INC., et al,** )  
) )  
**Defendants.** )

**CIVIL ACTION NO.: 2:05CV494-MHT**

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**DEFENDANT'S MOTION IN LIMINE NUMBER 18  
(TO PRECLUDE "GOLDEN RULE" ARGUMENTS)**

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COMES NOW the Defendant, Benton Express, Inc., and moves this Court, in limine, for an Order preventing Plaintiffs' counsel from attempting to arouse the jury's sympathy through "Golden Rule" arguments, showing as follows:

Federal law clearly prohibits counsel from appealing to the jury's sympathy by urging jurors to place themselves in the position of the plaintiff (the so-called "Golden Rule" argument). Loose v. Offshore Navigation, Inc., 670 F.2d 493 (5<sup>th</sup> Cir. 1982); Rojas v. Richardson, 703 F. 2d 186 (5<sup>th</sup> Cir. 1983); Klotz v. Sears & Roebuck Co., 267 F.2d 53 (7<sup>th</sup> Cir. 1959). Argument of this kind jeopardizes a fair trial because "[o]ne doing that would be no fairer judge of the case than would plaintiff ...." Hayles v. Jeter, 184 So. 2d 363, 365 (Ala. 1966). The "Golden Rule" argument "is universally recognized as improper because it encourages the jury to depart from neutrality and to decide the case on the basis of personal interest and bias rather than on the evidence." Ivy v. Security Barge Lines, Inc., 585 F.2d 732, 741 (5th Cir. 1978). Veiled attempts to circumvent this prohibition also have been struck down as variations "calculated to evoke precisely the same improper emotional response." Woods v. Burlington N.R.R. Co., 768 F.2d

1287, 1292 (11th Cir. 1985), rev'd on other grounds, 107 S. Ct. 967 (1987). The Court should therefore prevent the Plaintiff's counsel from making any such arguments.

For the foregoing reasons, Defendant respectfully requests the Court prevent the Plaintiff's counsel from appealing to the jury's sympathy by making "Golden Rule" arguments.

Respectfully submitted,

s/ Gregory A. Brockwell  
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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following on this the 6th day of March, 2006:

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